

MEMORANDUM

Agenda Item No. 13(G)

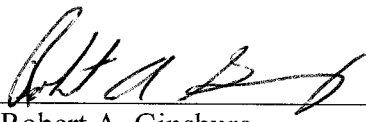
TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

DATE: May 25, 2004

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance amending section
33-151.18; relating to safety
barriers at child care facilities

The accompanying ordinance was prepared and placed on the agenda at the request of Senator Javier D. Souto.


Robert A. Ginsburg
County Attorney

RAG/jls



MEMORANDUM

(Revised)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

DATE: May 25, 2004

A handwritten signature in black ink, appearing to read "R. A. Ginsburg", is written over the "FROM" line.

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 13(G)

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 13(G)

5-25-04

ORDINANCE NO. _____

ORDINANCE PERTAINING TO ZONING; AMENDING SECTION 33-151.18 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; DELINEATING LOCATION OF OUTDOOR RECREATION PLAYGROUND/PLAY AREAS OR IN THE ALTERNATIVE INSTALLATION OF A SAFETY BARRIER AT CERTAIN CHILD CARE FACILITIES; REQUIRING EXISTING CHILD CARE FACILITIES TO COMPLY WITH REQUIREMENT WITHIN TWO YEARS OF ORDINANCE'S EFFECTIVE DATE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 33-151.18 of the Code of Miami-Dade County, Florida is hereby amended as follows:¹

Sec. 33-151.18. Physical standards.

- (a) *Outdoor areas.* Outdoor recreation>>playground<</play areas shall be in accordance with the following minimum standards, calculated in terms of the proposed maximum number of children for attendance at the school at any one (1) time unless otherwise indicated.

>>Minimum Standards for Outdoor Recreation Playground/Play Areas<<

<i>School categories</i>	<i>Required area</i>
Day nursery/kindergarten and preschool and after-school care	45 square feet per child calculated in terms of half of the proposed maximum number of children for attendance at the school at one (1) time
Elementary school (grades 1--6)	500 square feet per student for the first 30 students; thereafter, 300 square feet per student

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

Junior and senior high school (grades 7--12)	800 square feet per student for the first 30 students; 300 square feet per student for the next 300 students; thereafter, 150 square feet per student
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Where there are category combinations, each classification shall be calculated individually.

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- (i) Child care facilities as described in Section 33-151.11(a), (b) and (f), shall be prohibited from operating on property abutting or containing a water body such as a pond, lake, canal, irrigation well, river, bay, or the ocean unless a safety barrier is provided which totally encloses or affords complete separation from such water hazards. Swimming pools and permanent wading pools in excess of eighteen (18) inches in depth shall be totally enclosed and separated from the balance of the property so as to prevent unrestricted admittance. All such barriers shall be a minimum of forty-eight (48) inches in height and shall comply with the following standards:

- (1) Gates shall be of the spring back type so that they shall automatically be in a closed and fastened position at all times. Gates shall also be equipped with a safe lock and shall be locked when the area is without adult supervision.
- (2) All safety barriers shall be constructed in accordance with the standards established in Section 33-12, ~~[[except]]~~ >>:provided, however, << that screen enclosures shall not constitute a safety barrier for these purposes.

>>(j) Location requirement for outdoor recreation playground/play areas for Child Care facilities. All outdoor recreation playground/play areas for child care facilities as described in Section 33-151.11(a), (b) and (f) shall be located behind the front or side street building lines when such property lines abut section line or half-section line rights-of-way or both section line and half-section line rights-of-way.

All existing child care facilities as described in Section 33-151.11(a), (b) and (f) with a valid Certificate of Use shall comply with the foregoing outdoor recreation playground/play area location requirement, subject to all of the requisite permits and inspections, within a period of two (2) years of the effective date of this ordinance. It is provided, however, that at its option such child care facility in lieu of relocating its outdoor recreational/play area may provide for a safety barrier from vehicular traffic designed by a professional engineer which protective barrier shall be installed within two years of the date of this ordinance.

✓

Notwithstanding the outdoor area requirements of Section 33-151.18(a), any such child care facility in existence with a valid Certificate of Use issued prior to the effective date of this ordinance which is required by the foregoing provisions to relocate outdoor recreation playground/play area to the rear of the front or side street building lines or both the front and side street building lines or alternatively chooses to provide a safety barrier and such relocation or safety barrier results in the reduction of the minimum playground/play area required by Section 33-151.18(a), such reduced playground/play area shall be deemed in compliance with Section 33-151.18(a). It is further provided, that the location and amount of playground/play area previously established by a site plan approved at public hearing shall be deemed in compliance with such site plan notwithstanding the relocation of the playground/play area or the use of a safety barrier as required by this ordinance. In no event shall future expansion of any child care facility occur without complying with the requirement of Section 33-151.18(a).<<

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word “ordinance” may be changed to “section,” “article,” or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

RA6
CHC

Prepared by:

Craig H. Coller

Sponsored by Senator Javier D. Souto